

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
<b>Telecommunications Relay Services for</b>	)	
<b>Individuals with Hearing and Speech</b>	)	<b>CG Docket No. 03-123</b>
<b>Disabilities, and the Americans with</b>	)	<b>CC Docket No. 98-67</b>
<b>Disabilities Act of 1990</b>	)	

**MCI REPLY COMMENTS  
Speed of Answer Public Notice**

MCI hereby responds to comments submitted in the above-captioned proceeding. In addition to sixteen comments by video relay service (“VRS”) users, comments were also submitted by Hands On Video Relay Service (“HOVRS”) who is the VRS provider for AT&T, AT&T, MCI, Sorenson Media (“Sorenson”) and the Disability Services Department of the University of Minnesota (“UM”).

With the exception the HOVRS/ATT whose comments are nearly identical, all parties recognize that there is an extremely limited supply of qualified interpreters. MCI, UM, and Sorenson, Daniel Lute and Pastor Olson all draw the appropriate conclusion that the Commission should refrain from adopting any average speed of answer (“ASA”) requirement.<sup>1</sup> UM notes that even in the absence of an ASA requirement, the recent growth of VRS has increased employment costs by 30

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<sup>1</sup> Comments of MCI, Sorenson, UM filed February 25, 2004, and Lute and Olson filed February 24, 2005, CG Docket No. 03-123 and CC Docket No. 98-67.

percent.<sup>2</sup> UM also stresses in general that increasing demand for VRS operators will negatively impact fill rates (i.e. availability) of interpreters for businesses, colleges, and other institutions that employ persons with disabilities.<sup>3</sup> On this basis, UM supports a waiver of minimum VRS ASA for 5-7 years in consultation with VRS providers, interpreter training programs, and large employers of persons with speech and hearing disabilities, organizations representing interpreters and national organizations representing users.<sup>4</sup>

HOVRS submits data claiming that an ASA of 30 seconds it would only increase the demand for interpreters by 10 percent.<sup>5</sup> However, HOVRS assumes that all VRS providers are either operating 24 hours a day, or will be required to do so. If VRS were to be offered all day, demand could be considerably higher. The demand impact would be less if VRS providers did not operate all day long, but HOVRS implicitly advocates this position by advocating a treatment of abandoned calls on the basis of operating 24 hours a day.<sup>6</sup>

HOVRS maintains that by adopting a minimum ASA requirement, the Commission would guard against a decline in interpreter quality and long wait

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<sup>2</sup> UM Comments at 2.

<sup>3</sup> The FCC has recently determined that VRS may not be used within a single location, so VRS may not substitute for the use of interpreters by these institutions. *See* Public Notice, Federal Communications Commission Clarifies that Certain Telecommunications Relay Services (TRS) Marketing and Call Handling Practices are Improper and reminds that Video Relay Service (VRS) May not be Used as a Video remote Interpreting Service (“*Call Handling Order*”), CG Docket No. 03-123, DA 05-141, rel. January 26, 2005 at 5

<sup>4</sup> UM Comments at 3.

<sup>5</sup> HOVRS at 3, fn. 2.

<sup>6</sup> *Id.*, at 5.

times that is implicit in a shared cost of service regime. Reducing quality below average would reduce costs below average and allow super-normal profits in a shared cost of service regime.<sup>7</sup> As proof, HOVRS points to Sorenson, which it alleges has the longest ASA. MCI argued that in a market such as VRS, where providers must compete for every call, consumers will be able to choose the provider that offers the best quality services.<sup>8</sup> HOVRS responds that Sorenson engages in anti-competitive practices, such as its practice of modifying users' equipment to prevent access to other VRS providers.<sup>9</sup> MCI agrees that tying practices that prevent consumers from making VRS choices on the basis of service quality are anti-competitive.

The correct response however, is for the Commission to take actions to prevent these practices. The Commission has partly done so in its decision disallowing HOVRS' brown lunch incentive program.<sup>10</sup> The Commission must go further. Its recent decision prohibiting a VRS provider from restricting a user's ability to connect to another VRS provider unless it obtains the consumer's "consent," has created a loophole allowing just such a restriction to occur.<sup>11</sup> A customer may be handed a long contract containing many provisions with fine

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<sup>7</sup> Id., at 1.

<sup>8</sup> MCI Comments at 2.

<sup>9</sup> HOVRS Comments at 2. HOVRS of course, fails to mention its own anti-competitive "brown bag lunch program."

<sup>10</sup> Call Handling Order at 3.

print, including one requiring exclusive use of only one VRS provider. A consumer will not be fully informed of the implications of signing such an agreement in this situation. In the forthcoming *Interoperability Proceeding*, the Commission has an opportunity to clarify that while configuration of equipment is permissible, any exclusive agreement or blocking of access to other VRS providers is not permissible.<sup>12</sup> This block on interoperability identified by the petitioner in that proceeding should be removed in order to allow quality of service, including ASA, to be a factor in a consumer's choice of VRS provider.<sup>13</sup>

In conclusion, the vast majority of commenting parties support quality interpreters and recognize that a minimum ASA requirement will interfere with this goal. MCI agrees with UM that the Commission should indefinitely waive the ASA requirement while it monitors VRS ASA, as well as hours and quality of service for the next several years, and work with VRS providers, interpreter training programs, and large employers of persons with speech and hearing disabilities, organizations representing interpreters and national organizations representing users to establish an ASA that ensures the employment of both quality and affordable interpreters.

Respectfully submitted,

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<sup>11</sup> In the matter of Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Declaratory Ruling, CC Docket No. 98-67, CG Docket No. 03-123, DA 05-140, rel. January 26, 2005.

<sup>12</sup> Petition For Declaratory Ruling Filed By The California Coalition Of Agencies Serving The Deaf And Hard Of Hearing (CCASDHH) Concerning Video Relay Service (VRS) Interoperability, CC Docket NO. 98-67, CG Docket NO. 03-123, DA 05-509, rel. March 1, 2005

<sup>13</sup> MCI takes no position at this time on other requests made in the CCASDHH petition.

/s/Larry Fenster

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### **Statement of Verification**

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

Executed on March 5, 2005

/s/ Larry Fenster

Larry Fenster

## Service List

I, Michelle Lopez, do hereby certify that copies of the foregoing Reply Comments of MCI were sent on this 5<sup>th</sup> day of March, 2005 via first-class mail, postage pre-paid, to the following:

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